

~~(29)(f) DC4-711A, Refusal of Health Care Services, effective September 7, 2010.~~

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Notices for the Department of Environmental Protection between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

DEPARTMENT OF HEALTH

Division of Emergency Medical Operations

RULE NO.: 64J-2.010
 RULE TITLE: Apportionment of Trauma Centers within a Trauma Service Area (TSA)

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 36, No. 42, October 22, 2010 issue of the Florida Administrative Weekly.

The Hearing for Rule 64J-2.010 – Apportionment of Trauma Centers within a Trauma Service Area scheduled for February 16, 2011 as noticed in the Florida Administrative Weekly on October 22, 2010, Vol. 36, No. 42, has been cancelled due to the Governor’s Executive Order 11-01. Section 3 of the executive order requires state agencies to suspend all rulemaking activities for a three month period until the Office of Fiscal Accountability and Regulatory Reform has been established and an analysis of the state agencies rules has been completed.

**Section IV
 Emergency Rules**

DEPARTMENT OF REVENUE

RULE NO.: 12ER11-1
 RULE TITLE: Florida Tax Credit Scholarship Program

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE: Section 20, Chapter 2010-24, L.O.F., authorizes the Department of Revenue to promulgate an emergency rule, and to renew the emergency rule pending adoption of a permanent rule, to administer the provisions of the Florida Tax Credit Scholarship Program. This law authorizes the Department, and all conditions are deemed met, to adopt an emergency rule. This emergency rule establishes the Department’s administration of the Florida Tax Credit Scholarship Program. Procedures governing the approval of tax credit allocations and rescindments, the claiming of

allocated tax credits on a tax return, and the approval for carryforward tax credits to a subsequent tax year are included in this emergency rule.

REASON FOR CONCLUDING THAT THE PROCEDURE IS FAIR UNDER THE CIRCUMSTANCES: The Legislature expressly authorized in Section 20, Chapter 2010-24, L.O.F., the promulgation of an emergency rule, and to renew the emergency rule pending adoption of a permanent rule, by the Department of Revenue to administer the provisions of Chapter 2010-24, L.O.F. This law expanded the tax credits against corporate income tax and insurance premium tax previously established in Sections 220.187 and 624.51055, F.S., to establish the Florida Tax Credit Scholarship Program. Beginning July 1, 2010, taxpayers were allowed to apply for a credit allocation for contributions made to a nonprofit scholarship funding organization to receive a tax credit against excise taxes on liquor, wine, and malt beverages administered by the Division of Alcoholic Beverages and Tobacco of the Florida Department of Business and Professional Regulation. Beginning January 1, 2011, certain taxpayers were allowed to apply for a credit allocation to be taken as a tax credit against sales and use tax, and taxpayers who pay the tax on oil and gas production in Florida are allowed to apply for a credit allocation to be taken as a tax credit. This emergency rule establishes the procedures governing the approval of tax credit allocations and rescindments, the approval for carryforward tax credits to a subsequent tax year, and the procedures to be followed by taxpayers when claiming tax credits on tax returns. This emergency rule adopts those applications necessary to apply for an allocation of the credit and to rescind a previously awarded credit allocation.

SUMMARY: Emergency Rule 12ER11-01 (Florida Tax Credit Scholarship Program): (1) provides the taxpayers authorized under Chapter 2010-24, L.O.F., eligible to participate in the Florida Tax Credit Scholarship Program and when those taxpayers are authorized to participate in the Program; (2) requires eligible taxpayers to file an Application for Tax Credit Contributions to Nonprofit Scholarship Funding Organizations with the Department to receive a credit allocation from the tax cap authorized by the law for the 2010-2011 state fiscal year; (3) establishes the procedures the Department will use to notify an applicant of the taxpayer’s credit allocation; (4) provides that a contribution to an eligible nonprofit scholarship funding organization must be made by an eligible taxpayer prior to taking a tax credit on a tax return; (5) establishes procedures for taxpayers to carry forward a tax credit for a period of up to three years when a taxpayer’s tax liability is insufficient to take the full amount of the tax credit; (6) establishes procedures for taxpayers who are unable to use a credit allocation to submit an Application for Rescindment of Tax Credit Allocation to Nonprofit Scholarship Funding Organizations to rescind that credit and when those funds are eligible to other taxpayers for

that state fiscal year; and (7) provides how taxpayers may obtain copies of the applications used in the administration of the Florida Tax Credit Scholarship Program.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Robert DuCasse, Revenue Program Administrator, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)717-6476

THE FULL TEXT OF THE EMERGENCY RULE IS:

12ER11-1 Florida Tax Credit Scholarship Program.

(1) SCOPE. This rule establishes the procedures the Department of Revenue will use to administer the Florida Tax Credit Scholarship Program, as provided in Section 1002.395, F.S., as amended by section 1, Chapter 2010-24, L.O.F. This program allows taxpayers to receive a credit allocation for contributions made to nonprofit scholarship funding organizations. This rule establishes procedures governing the approval of tax credit allocations and rescindments, the approval for carryforward tax credits to a subsequent tax year, and the procedures to be followed by taxpayers when claiming tax credits on tax returns.

(2) DEFINITIONS. For purpose of this rule, the following terms mean:

(a) “Contribution” means an eligible contribution, as defined in Section 1002.395(2), F.S., as amended by section 1, Chapter 2010-24, L.O.F., made to an eligible nonprofit scholarship funding organization.

(b) “Credit allocation” means an allocation to a taxpayer of an annual tax credit cap authorized under the Florida Tax Credit Scholarship Program.

(c) “Department” means the Florida Department of Revenue.

(d) “Division” means the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation.

(e) “Eligible nonprofit scholarship funding organization” means a charitable organization as defined in Section 1002.395(2), F.S., as amended by section 1, Chapter 2010-24, L.O.F. A list of eligible nonprofit scholarship funding organizations established by the Department of Education is available at www.floridaschoolchoice.org/.

(f) “State fiscal year” means the annual period beginning July 1 through June 30 of the following year.

(g) “Tax credit cap” means the maximum annual tax credit amount that the Department is authorized in Section 1002.395(5), F.S., as amended by section 1, Chapter 2010-24, L.O.F., to allocate. The Department will issue a Taxpayer Information Publication to announce increases in the maximum annual tax credit.

(3) TAXPAYERS ELIGIBLE TO PARTICIPATE IN THE PROGRAM. Taxpayers who pay any of the following taxes may apply to the Department for a credit allocation as follows:

(a) For the taxes administered by the Department:

1. Florida corporate income tax imposed under Chapter 220, F.S.

2. Florida insurance premium tax imposed under Section 624.509, F.S.

3. Beginning January 1, 2011, taxpayers who hold a valid Sales and Use Tax Direct Pay Permit, issued by the Department, as provided in Section 212.183, F.S., and Rule 12A-1.0911, F.A.C.

4. Beginning January 1, 2011, taxpayers who pay tax on oil production in Florida imposed under Section 211.02, F.S., or who pay tax on gas production in Florida imposed under Section 211.025, F.S.

5. Taxpayers who were eligible for tax credits authorized by Sections 220.187, and 624.51055, F.S., prior to July 1, 2010, remain eligible for the tax credit now authorized by Section 1002.395, F.S., beginning July 1, 2010.

(b) Beginning July 1, 2010, for excise taxes administered by the Division:

1. Excise tax on liquor beverages imposed under Section 565.12, F.S.:

2. Excise tax on wine beverages imposed under Section 564.06, F.S., except excise taxes imposed on wine produced by manufacturers in Florida from products grown in Florida; or

3. Excise tax on malt beverages imposed under Section 563.05, F.S.

(4) APPLICATIONS FOR CREDIT ALLOCATIONS.

(a) To receive a credit allocation, taxpayers must submit an Application for Tax Credit for Contributions to Nonprofit Scholarship Funding Organizations (Form DR-116000, R. 01/11, hereby incorporated by reference, Effective 01/11) to the Department.

1. Taxpayers required to file returns and remit payments by electronic means pursuant to Section 213.755, F.S., and Rule Chapter 12-24, F.A.C., must apply online via the Department’s Internet site at www.myflorida.com/dor/taxes/tax_incentives.html. When the application is completed and submitted online, a confirmation number will be provided to confirm receipt of the application.

2. The fastest and easiest way to apply for the credit is to use the online application at www.myflorida.com/dor. Taxpayers who do not meet these requirements are encouraged to apply online. However, such taxpayers may apply for a credit allocation by filing a paper application with the Department.

(b) A separate application to receive a credit allocation is required for:

1. Each eligible nonprofit scholarship funding organization the taxpayer intends to support; and

2. Each beverage license issued by the Division for which a separate return to report and pay the excise taxes on liquor, wine, and malt beverages is filed with the Division.

(c) Taxpayers are eligible to apply during the following periods to receive a credit allocation from each annual tax credit cap for the following taxes as follows:

1. Corporate Income Tax – A taxpayer may make an application for a credit allocation on the first business day of January of each calendar year for its tax year that began during that calendar year. The application must be made on or before the last day of the taxpayer's corporate income tax year. Taxpayers were eligible on January 1, 2010, to apply for a credit allocation under Section 220.187, F.S. (2009), and Rule 12C-1.0187, F.A.C., effective 4-26-10, for the 2010-2011 state fiscal year.

a. Example: A calendar year taxpayer remains eligible to apply for a credit allocation for the 2010-2011 state fiscal year credit. The application must be made on or before December 31, 2010.

b. Example: A taxpayer with a tax year beginning December 1, 2010, and ending November 30, 2011, remains eligible to apply for a credit allocation for the 2010-2011 state fiscal year. The application must be made on or before November 30, 2011.

2. Insurance Premium Tax – An application for a credit allocation may be made beginning on the first business day of January of each calendar year and may not be made after December 31 of that calendar year. Taxpayer remains eligible to apply for a credit allocation for the 2010-2011 state fiscal year credit. The application must be made on or before December 31, 2010. For the 2011-2012 state fiscal year tax credit cap, a taxpayer may submit an application for a credit allocation beginning on January 3, 2011. The application must be made on or before December 31, 2011.

3. Sales and Use Tax – Tax on Oil and Gas Production – Taxayers are not eligible to apply for a credit allocation for sales and use tax or for the taxes on the oil and gas production in Florida until January 1, 2011. Beginning January 3, 2011 (the first business day of 2011), an application for a credit allocation may be submitted to the Department at any time during the state fiscal year.

a. For the 2010-2011 state fiscal year, taxpayers may apply for a credit allocation beginning January 3, 2011. The application must be made on or before June 30, 2011.

b. For the 2011-2012 state fiscal year and subsequent state fiscal years, taxpayers may apply for a credit allocation beginning on July 1. The application must be made on or before June 30 of the state fiscal year for which the taxpayer is applying.

4. Excise Taxes on Liquor, Wine, and Malt Beverages – Beginning July 1, 2010, an application for a credit allocation may be made at any time during the state fiscal year. Taxpayers may apply for a credit allocation beginning July 1 of a state fiscal year. The application must be made on or before June 30 of the state fiscal year for which the taxpayer is applying.

(d) The Department will accept applications until the tax credit cap is reached, or until the end of the state fiscal year or tax year for corporate income tax and insurance premium tax, whichever occurs first.

(5) NOTIFICATION.

(a) The Department will approve credit allocations on a first-come, first-served basis. Within ten days of receipt of an application, the Department will send written correspondence regarding the amount of the credit allocation for each tax applied for, or reason the credit allocation could not be approved. For excise tax on liquor, wine, and malt beverages, the Division must approve the credit allocation before the Department will issue such correspondence.

(b) When approved, the Department's approval letter will specify the period in which the contribution to the designated nonprofit scholarship funding organization must be made. Contributions must be made during the year specified in the approval letter. The organization receiving a contribution will issue the taxpayer a certificate of contribution signed by an officer or authorized representative of the organization containing:

1. Contributor's name;
2. Contributor's federal identification number;
3. Contributor's license number issued by the Division, if applicable;
4. Amount of contribution;
5. Date of contribution; and
6. Name of eligible nonprofit scholarship funding organization.

(c) The amount of tax credit claimed on a tax return is limited to the amount of contribution contained in the certificate of contribution issued by an eligible nonprofit scholarship funding organization. The taxpayer must make the contribution before the credit is claimed on a tax return.

(d) No tax credit will be allowed when a taxpayer:

1. Fails to make the designated contribution;
2. Fails to make a contribution before claiming the tax credit on a tax return;
3. Makes a contribution to an ineligible organization; or,
4. Makes the contribution outside the period specified in the Department's approval letter.

(e) When an eligible nonprofit scholarship funding organization is unable to accept the taxpayer's contribution, or a part of the contribution, because of its obligations under Section 1002.395, F.S., the taxpayer may make a contribution or partial contribution to another eligible nonprofit scholarship

funding organization. That organization must provide a written statement to the taxpayer declining the contribution. The taxpayer is required to keep the written statement in the taxpayer's books and records.

(6) TAX CREDITS.

(a)1. Corporate Income Tax – A tax credit of 100 percent of the contribution against any corporate income tax due for the tax year is allowed. The amount of the tax credit for a tax year:

a. Is limited to 75 percent of the corporate income tax due after application of any other allowable credits taken by the taxpayer for that tax year;

b. Must be reduced by the difference in federal corporate income tax due computed with the credit and without the credit; and

c. Must be added back to taxable income in determining Florida corporate income tax due.

2. Taxpayers must attach a copy of the certificate of contribution from each eligible nonprofit scholarship funding organization to the tax return on which the credit allocation, or a portion of the credit allocation, is taken as a tax credit.

(b)1. Insurance Premium Tax – A tax credit of 100 percent of the contribution against any insurance premium tax due under Section 624.509(1), F.S., for the tax year is allowed. The amount of the tax credit for a tax year is limited to 75 percent of the tax due after deducting:

a. Assessments made pursuant to Section 440.51, F.S. (workers compensation administrative assessments);

b. Credits for taxes paid under Sections 175.101 and 185.08, F.S. (firefighters' and police officers' pension trust funds); and

c. Credits for income taxes and emergency excise taxes paid under Chapters 220 and 221, F.S., and the salary credit allowed under Section 624.509(5), F.S., as these are limited by Section 624.509(6), F.S. (the 65 percent limitation).

2. Taxpayers must attach a copy of the certificate of contribution from each eligible nonprofit scholarship funding organization to the tax return on which the credit allocation, or a portion of the credit allocation, is taken as a tax credit.

(c)1. Sales and Use Tax – Beginning January 1, 2011, a tax credit of 100 percent of the contribution is allowed against any sales and use tax due imposed under Chapter 212, F.S., to any taxpayer who holds a valid Sales and Use Tax Direct Pay Permit issued by the Department.

2.a. Taxpayers must submit a copy of the certificate of contribution from each eligible nonprofit scholarship funding organization to:

Florida Department of Revenue
Revenue Accounting
P. O. Box 6609
Tallahassee, FL 32314-6609

b. Within ten days of receipt of an application, the Department will send written instructions on how to claim the credit allocation as a tax credit on a sales and use tax return remitted to the Department by electronic means.

(d)1. Tax on Oil and Gas Production – Beginning January 1, 2011, a tax credit of 100 percent of the contribution is allowed against any tax due on oil production in Florida or against any tax due on gas production in Florida imposed under Sections 211.02 and 211.025, F.S. The tax credit may not exceed 50 percent of the tax due on the return on which the tax credit is taken.

2. Taxpayers must attach a copy of the certificate of contribution from each eligible nonprofit scholarship funding organization to the tax return on which the credit allocation, or a portion of the credit allocation, is taken as a tax credit.

(e)1. Excise Tax on Liquor, Wine, and Malt Beverages – Beginning July 1, 2010, a tax credit of 100 percent of the contribution is allowed against the following taxes administered by the Division.

a. Excise tax on liquor beverages imposed under Section 565.12, F.S.;

b. Excise tax on wine beverages imposed under Section 564.06, F.S., except excise taxes imposed on wine produced by manufacturers in Florida from products grown in Florida; or,

c. Excise tax on malt beverages imposed under Section 563.05, F.S.

2. The tax credit taken on a return filed with the Division is limited to 90 percent of the tax due on the return. Taxpayers must attach a copy of the certificate of contribution from each eligible nonprofit scholarship funding organization to the tax return on which the credit allocation, or a portion of the credit allocation, is taken as a tax credit.

(f) Contributions to an eligible nonprofit scholarship funding organization are not payments of estimated tax or installment payments of tax.

(7) CARRYFORWARD OF UNUSED CREDITS.

(a) When a taxpayer is unable to use a tax credit during the period specified by the Department in the approval letter because the taxpayer's liability is insufficient, the taxpayer may apply to carry forward the unused tax credit amount for a period not to exceed three years. Taxpayers must submit an Application for Tax Credit for Contributions to Nonprofit Scholarship Funding Organizations (Form DR-116000) requesting approval to carry forward the unused portion of the tax credit during the year in which the taxpayer wants to carry forward the unused tax credit. Taxpayers must submit a separate application to carry forward any unused credit allocation for each state fiscal year. Applications to carry forward amounts beyond the three year period will not be accepted by the Department. See paragraph (4)(a) for submitting the application to the Department.

(b) A separate application to carry forward an unused tax credit is required for each beverage license issued by the Division for which a separate return to report and pay the excise taxes on liquor, wine, and malt beverages is filed with the Division.

(c) Within ten days of receipt of the application, the Department will send written correspondence regarding the amount of the credit carryforward, or the reason the carryforward request could not be approved. For excise tax on liquor, wine, and malt beverages, the Division must approve the carryforward before the Department will issue such correspondence. No request will be approved when the application for a credit allocation carryforward is submitted for a period beyond three years from the year in which the credit allocation was approved.

(d) A taxpayer may not convey, assign, or transfer a credit allocation to another entity unless all of the assets of the taxpayer are conveyed, assigned, or transferred in the same transaction.

(8) RESCINDMENT OF UNUSED TAX CREDITS.

(a) The rescindment provision allows credit allocations that will not be used by the taxpayer to be reallocated to other taxpayers who may use the credit allocation. Taxpayers must submit an Application for Rescindment of Tax Credit Allocation for Contributions to Nonprofit Scholarship Funding Organizations (Form DR-116100, R. 01/11, hereby incorporated by reference, Effective 01/11) to the Department to rescind all or a portion of unused credit allocation.

(b) An application for rescindment of the unused credit allocation by the Department will not be approved when:

1. The amount of credit allocation requested to be rescinded has been claimed as a credit on a previously filed return;
2. The taxpayer has had more than one approved rescindment of credit within the last three tax years; or
3. The allocation year is closed for all taxpayers. The allocation period for a calendar year is closed for all taxes and all taxpayers on November 30 of the subsequent calendar year.

(c) Within ten days of receipt of an application, the Department will send written correspondence regarding the amount of the rescindment, or the reason rescindment could not be approved. For excise tax on liquor, wine, and malt beverages, the Division must approve the rescindment before the Department will issue such correspondence.

(d) When the approval of a rescindment allows the tax credit cap for a state fiscal year to be reopened and available for allocation, the Department will notify each nonprofit scholarship funding organization that the tax credit cap is available for allocation.

(9) APPLICATIONS. Copies of the applications used by the Department in the administration of the Florida Tax Credit Scholarship Program are available, without cost, by one or more of the following methods: 1) downloading the application

from the Department's Internet site at www.myflorida.com/dor/forms; or, 2) calling the Department at (800)352-3671, Monday through Friday, 8 a.m. to 7 p.m., Eastern Time; or, 3) visiting any local Department of Revenue Service Center or, 4) writing the Florida Department of Revenue, 5050 West Tennessee Street, Tallahassee, Florida 32399-0112. Persons with hearing or speech impairments may call the Department's TDD at (800)367-8331 or (850)922-1115.

Rulemaking Authority s. 20, Ch. 2010-24, L.O.F. Law Implemented 92.525(1)(b), 211.02, 211.026, 212.183, 213.37, 220.187, 624.51055 FS., Ch. 2010-24, L.O.F. History--New

THIS RULE TAKES EFFECT UPON BEING FILED WITH THE DEPARTMENT OF STATE UNLESS A LATER TIME AND DATE IS SPECIFIED IN THE RULE.
EFFECTIVE DATE: January 21, 2010

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

Notices for the Board of Trustees of the Internal Improvement Trust Fund between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Notices for the Department of Environmental Protection between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

Section V
Petitions and Dispositions Regarding Rule
Variance or Waiver

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

Notices for the Board of Trustees of the Internal Improvement Trust Fund between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

WATER MANAGEMENT DISTRICTS

The South Florida Water Management District (District) hereby gives notice:

On January 13, 2011, the District Governing Board issued SFWMD Order No. 2011-008-DAO-ROW was issued to Granada Estates Homeowners Association (Application No. 10-1104-1). The petition for waiver was received by the District on November 4, 2010. Notice of receipt of the petition requesting the waiver was published in the Florida